

**Summary of IDEM Workgroup Meeting
ANTIDEGRADATION/OSRW**

Monday, March 17, 2003

IDEM, 2525 N. Shadeland Ave., Conference Room C, Indianapolis
10:00a.m. – 3:00p.m. E.S.T.

Introduction:

On Monday, March 17, 2003, IDEM staff met for the sixth time with a wide cross-section of stakeholders which make up the Antidegradation/OSRW workgroup. These notes are intended to be a summary of the major points from the meeting held at IDEM's Shadeland offices.

The meeting was called to order by Larry Wu. Those in attendance for all or part of the meeting included: Bill Beranek, Bowden Quinn, Dan Olson, Robin Feller, Tom Simon, Charlotte Read (by speakerphone), Neil Parke, and Ralph Roper.

In addition, the following IDEM staff members were present for all or part of the meeting: Dennis Clark, John Nixon, Dave Kallander, Martha Clark, and Megan Wallace.

Summary:

The workgroup discussed the following:

1. The minutes from the February 24, 2003 meeting were approved with the following corrections:
 - A. 4C was removed. Bill Beranek suggested the thought (i.e., Is there any way to have in the rule, standards that apply to all contaminants with the exception of contaminants we may not know about yet?) be held for later discussion.
 - B. 4B was corrected to show that the decision to use the pollutant by pollutant was not unanimous and other options are still being considered.
They will then be posted to the triennial website.
2. The workgroup began looking at the second notice from the withdrawn rulemaking #01-97(WPCB) to pick out antidegradation language that the group could agree on. This exercise raised the following five major issues that need to be ironed out:
 - A. "necessary and accommodates important economic or social development" versus "necessary to accommodate important economic and social development"
 1. Bowden wants it written as the federal language is written which is "necessary to accommodate important economic and social development". If it is written the other way, what does necessary mean? Charlotte Read agreed with Bowden.
 2. Neil thinks "necessary" is difficult to define. Necessary has to be determined on a case by case basis.
 3. Denny thinks it should be written, "necessary and accommodates important economic or social development". He says this would be easier to implement

and shows that it is more than a one step process. He says that EPA explained the federal language to mean that it is a two step process, therefore we should just write the actual rule language this way.

4. After further discussion, the workgroup asked IDEM to rewrite 327 IAC 2-1-2(b)(2) from the second notice of the withdrawn rule #01-97(WPCB) and bring it back to the workgroup next month for discussion.
- B. “Pollutant by Pollutant” versus “Water body by Water body”
1. Ralph thinks water bodies should be designated water body by water body. If pollutant by pollutant is the method used, a water body could have all three designations. He says that is too difficult for people to understand and too difficult to explain to people. It doesn’t make sense.
 2. Tom agrees it should be water body by water body because this would be a more holistic approach than pollutant by pollutant. Pollutant by pollutant will only lead to decline (e.g., Patoka River). He thinks chemistry is impersonal and people don’t get what pH or dissolved oxygen are, therefore they don’t understand what they are doing to the water. He says that we don’t have many water bodies that are exceptional. He states that even if dischargers have permits that say they can’t discharge more than a certain amount, it is still causing a biological impact. He says that they don’t have all of the data to support everything that they know about the impairment of the waters, but he knows that when the water quality comes down from exceptional to good, we lose part of the biological communities in the waters.
 3. Denny states that Indiana Great Lakes Initiative (GLI) rules use the pollutant by pollutant method. He says it is the only way to be able to issue permits with discharge levels. Denny addresses Tom’s concern by adding that antidegradation is for high quality waters and the purpose is to keep the waters that way. He says a discharger has to demonstrate that there is no way to do what they need to do without lowering water quality, but still keeping it above water quality standards. Then the community and surrounding areas’ opinions are taken into account. He says if new information is received that a criterion is not protective and results in harm to the biological community, that criterion should be changed and permits reissued. He ends by saying that he sees Tom’s point, but this isn’t an antidegradation issue.
 4. Denny agrees that additional aquatic life use tiers would be helpful. This issue will be discussed further.
- C. Various implementation issues
1. Charlotte wants an explanation of what the implementation procedure improvements are that caused the departure from the GLI rules in #01-97(WPCB).
 2. Looking for an explanation of where the numbers came from in 327 IAC 2-1-2.2(b)(4)(A), (B), and (C) of the second notice of #01-97(WPCB). Was it scientific? Why did the people involved in the discussions for that draft rule feel these numbers would not significantly lower water quality? Denny said he will try to find out.
- D. How to merge Tier 2.5 outstanding historical state resource waters (OHSRWs) and Tier 2.9 outstanding state resource waters (OSRWs)

- E. Possibility of the antidegradation rule and the mercury variance rule conflicting
 - 1. Does antidegradation block all new variances? (E.g., the draft rule presumes a discharger meets the mercury standard. If the standard is not met, a variance cannot be issued.) Bill Beranek said that antidegradation policy should not prevent obtaining a mercury variance.
 - 2. Denny suggests a discussion with EPA on this issue.
- 3. The discussion on the second notice from the withdrawn rulemaking #97-1(WPCB) (i.e., the “1999” draft) also sparked the following minor issues:
 - A. The wording of Tier 1 “criterion” versus Tier 2 “value”. Bill Beranek thought the distinction was important because if criterion were the same as value, we would lose track of the amount of toxicity information used to derive the criterion or value.
 - B. A definition needs to be drafted for “standard”. First IDEM will check for a definition for “standard” in existing rules.
 - C. How to deal with mass and water conservation
 - 1) Would a river of greater flow and lower concentration be considered worse than a river of lesser flow and higher concentration?
 - 2) What happens if water conservation efforts increase concentration? Charlotte suggested contacting DNR to address water shortages.
 - D. Wording of 2-1-2.2(b)(1)(B). Neil was concerned that a discharger may not be able to switch a water treatment additive without running an antidegradation demonstration. Dave Kallander called them “screening values”. Denny suggested checking with Steve Roush. Bill said we would need to deal with the wording of that section.
 - E. “Cumulative impacts”. E.g., if one discharger takes up 30%, can another take up 30%? Bill Beranek suggested developing definitions for “used up” and “floor”.
 - F. Is a violation of 2-1-2.4(b) a violation of the standard? Neil Parke said that the 1999 draft reads that failing to meet 2-1-2.4(b) is a standards violation.
- 4. The workgroup discussed the following issues concerning public participation:
 - A. What the workgroup is already doing for public participation
 - 1. First Notice
 - 2. Workgroup meetings
 - 3. Posting of minutes to website
 - 4. Plan two public meetings before the Second Notice
 - B. Bill suggested having two short documents for the public meetings
 - 1. One for general ideas on what antidegradation is
 - 2. One for policy issues/questions
 - C. Larry volunteered to help draft the two documents for review at the May meeting and asked for more volunteers.
 - D. Ralph volunteered his help and a document that he had already created which was an outline of the Federal Register, Vol. 63, No. 129, with a date of Tuesday, July 7, 1998 dealing with Water Quality Standards Regulation.

5. The next meeting is scheduled for Monday, April 21, 2003 from 10:00a.m. to 3:00p.m., at IDEM, 2525 N. Shadeland Avenue, Conference Room C, Indianapolis. The workgroup, which has scheduled meetings through August, 2003, set the following meeting dates: Monday, September 15, 2003, Monday, October 20, 2003, Monday, November 17, 2003 and Monday, December 15, 2003. All meetings are from 10:00a.m. to 3:00p.m. Locations will be announced later.